

MEMORANDUM ENDORSEMENT

Szymczak, et al. v. Nissan North America, Inc., et unum, 10 CV 7493 (VB)

The Court is in receipt of plaintiffs' counsel's letter dated December 29, 2011, requesting an extension of time for plaintiffs to file a second amended complaint and conduct certain, limited jurisdictional discovery. The Court declines to endorse plaintiffs' specific requests and instead enters the following order:

Plaintiffs' second amended complaint shall be filed by no later than January 16, 2012. Defendant Nissan North America, Inc., shall file its answer or otherwise respond to the second amended complaint by no later than March 2, 2012.

Plaintiffs' discovery demands regarding the personal jurisdiction issue shall be served by no later than January 16, 2012. Defendant Nissan Motor Co., Ltd. ("NMC") shall respond to those demands by no later than March 2, 2012.

NMC's motion to dismiss for lack of personal jurisdiction is DENIED without prejudice. NMC is granted leave to re-file the motion in accordance with the following schedule:

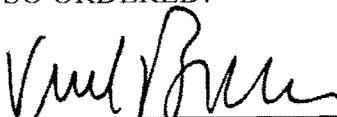
By no later than March 9, 2012, plaintiffs shall send a status letter to defendants' counsel about how it plans to proceed with regard to the personal jurisdiction issue. Plaintiffs shall send a copy of the letter by fax to the Court. If appropriate, NMC is to re-file its motion by no later than March 16, 2012. Plaintiffs' opposition to the motion shall be filed by no later than April 7, 2012, and NMC's reply is due by April 21, 2012.

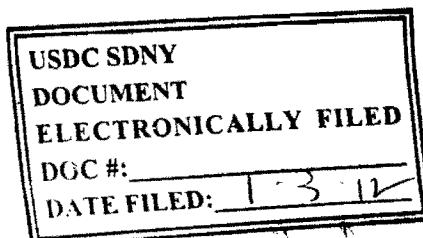
Plaintiffs' counsel is instructed to send a copy of this order to defendants' counsel.

The Clerk is instructed to terminate NMC's pending motion to dismiss (Doc. #11).

Dated: December 29, 2011  
White Plains, New York

SO ORDERED:

  
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Vincent L. Briccetti  
United States District Judge



DEC. 29. 2011 12:53PM

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**LAW OFFICES**

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**MEMO ENDORSED**

December 29, 2011

**Via Facsimile Transmission**

Hon. Vincent L. Briccetti  
U.S. Dist. Court, S.D.N.Y.  
Federal Bldg. & U.S. Courthouse  
300 Quarropas Street  
White Plains, NY 10601

Re: William Szymczak, et al. v. Nissan North America, Inc.  
Case No. 10-cv-07493 (JFM)(PD)

Dear Judge Briccetti:

We are co-counsel for plaintiffs in the above referenced matter and respectfully write concerning the parties' joint request for a modification of the short term schedule concerning amendment of the complaint and limited jurisdictional discovery.

Pursuant to this Court's Memorandum Decision ruling on Defendants' motions to dismiss the amended complaint in the within action (Docket No. 26 filed December 16, 2011), Plaintiffs were granted leave to file a second amended complaint on or before December 30, 2011 to address claims that were dismissed without prejudice as well as to conduct certain discovery regarding jurisdictional issues. Counsel for both parties have conferred among themselves and believe that the time frame ordered by the Court is too brief, particularly given that counsel will

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Hon. Vincent L. Briccetti  
December 29, 2011  
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be out of the office during portions of the current holiday season. Counsel therefore respectfully request that the Court modify the schedule so as to permit Plaintiffs to file their proposed second amended complaint and to serve limited jurisdictional discovery relating to NMC and personal jurisdiction over NMC by January 16, 2012. In addition, although Defendants have thirty (30) days under the federal rules to produce documents, Defendant NMC, a Japanese corporation, requests and plaintiffs agree to forty-five (45) days to respond.

Accordingly, the parties propose the following: setting the date for Plaintiffs to file their amended complaint and limited discovery demands to January 16, 2012; setting the date for Defendants' responses to March 2, 2012; moving the submission of Plaintiffs' status letter to the Court regarding jurisdiction of NMC from February 7 to March 9, 2012; moving the filing of any substantive objection to Defendants' motion to dismiss based on jurisdiction of NMC from February 21, 2012 to March 21, 2012; and setting the filing of Defendants' reply, if any, in response thereto from February 28 to April 5, 2012. Accordingly, the parties submit herein a proposed stipulation and order which they respectfully request that the Court enter in the within matter.

Respectfully submitted,

*Gary S. Graifman*  
Gary S. Graifman

GSG:cdc  
cc: All Counsel (via email)

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**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

WILLIAM SZYMCZAK, STEFAN SCHUELE,  
KIM DREHER, MARIO LOPEZ, MELANIE  
RIVERA, KATRINA BOYD, ANGELA  
GREATHOUSE, CORNELIUS JACKSON,  
DAVID SIMONS, LOLITA DILLARD, and  
ANNE STEWART, individually and on behalf of  
others similarly situated,

Plaintiffs,

vs.

NISSAN NORTH AMERICA, INC., and  
NISSAN MOTOR CO., LTD.,

Defendants.

**Civil Action No.: 10-CV- 07493(VLB)**

**STIPULATION AND ORDER**

**WHEREAS**, the Plaintiffs request additional time for leave to file a Second Amended Complaint and to serve discovery request on Defendants limited to jurisdictional issues concerning jurisdiction over the Japanese corporation Nissan Motor Co., Ltd. ("NMC"); and

**WHEREAS**, the Parties have agreed to adjourn the time for Plaintiffs to file and/or serve an Amended Complaint and serve limited jurisdictional discovery; and

**WHEREAS**, Defendants request forty-five (45) days to respond to such discovery requests and Plaintiffs have agreed to such;

**IT IS HEREBY STIPULATED AND AGREED**, by and between the undersigned attorneys for the Plaintiffs and Defendants, as follows:

1. Plaintiffs will file their Second Amended Complaint on or before January 16, 2012.

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2. Plaintiffs shall serve their limited jurisdictional discovery requests on counsel for Defendants on or before January 16, 2012. Service shall be made upon Defendants' counsel on that date by email, with a courtesy copy by regular mail.

3. Defendants shall respond, answer or otherwise move, with respect to the Amended Complaint on or before March 2, 2012. Service shall be made upon Plaintiffs' counsel on that date by email, with a courtesy copy by regular mail.

4. Defendants shall serve responses to the Plaintiffs' limited jurisdictional discovery relating to NMC, including any documents to be produced, on or before March 2, 2012.

5. Plaintiffs' status letter to the Court regarding jurisdictional issues shall be submitted to the Court by March 09, 2012. Plaintiffs' substantive objection to NMC's motion shall be filed no later than March 21, 2012 and NMC's reply by April 5, 2012.

Dated: December 29, 2011

**SEDGWICK, DETERT,  
MORAN & ARNOLD, LLP**

**BY:**

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*Attorneys for Defendants*

**KANTROWITZ, GOLDHAMER  
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**BY:**

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*Attorneys for Plaintiffs*

**SO ORDERED:**

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**Hon. Vincent L. Briccetti, U.S.D.J.**